

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Kenneth W., Sr. & Laverne Gurley)
 Ward 081, Block 079, Parcel B00094) Shelby County
 Residential Property)
 Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$35,600	\$236,800	\$272,400	\$68,100

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 15, 2006 in Memphis, Tennessee. In attendance at the hearing were Laverne Gurley, the appellant, and Shelby County Property Assessor's representatives Ron Palmer and John Zelinka, Esq.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 3106 Bel Grave Drive in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$212,000. In support of this position, the taxpayer argued that the 2005 countywide reappraisal caused the appraisal of subject property to increase excessively. In addition, the taxpayer appended to her appeal form a list of 86 sales. Mrs. Gurley testified that only 14 of the 86 sales sold for more than \$272,400. Moreover, the only home in her immediate neighborhood that sold for over \$272,400 contained 5,000 square feet. Subject residence, in contrast, contains only 3,401 square feet.

The assessor contended that subject property should be valued at \$251,700. In support of this position, five comparable sales were introduced into evidence. Mr. Palmer maintained that the comparable sales support a value of \$74.00 per square foot or \$251,700 for the subject property.

The first issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the taxpayer did not appear for her hearing with the Shelby County Board of Equalization.

The administrative judge finds that the taxpayer became a widow after 65 years of marriage in 2005. The administrative judge finds that the emotional distress associated with the loss of her husband impaired Mrs. Gurley's functioning. The administrative judge finds that the foregoing constitutes reasonable cause under Tenn. Code Ann. § 67-5-1412(e).

Accordingly, the administrative judge finds that the State Board of Equalization has jurisdiction over this appeal.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$251,700 as contended by the assessor of property.

Since the taxpayer is the appealing party, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

Respectfully, the administrative judge finds that the taxpayer's list of comparable sales have not been analyzed in any meaningful fashion. Absent additional analysis, the administrative judge finds that Mr. Palmer's analysis has greater probative value.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$35,600	\$216,100	\$251,700	\$62,925

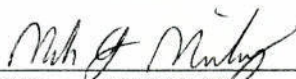
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 22nd day of February, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Laverne T. Gurley
Tameaka Stanton-Riley, Appeals Manager